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EXAMINER

ALIE, GHASSEM

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3724

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,545	Applicant(s) RENSEN ET AL.	
	Examiner GHASSEM ALIE	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01/25/10.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-27, 29-31, 38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) 38 and 39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-27 and 29-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 June 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 01/25/2010 has been entered, wherein claims 18, 25 and 38 have been amended and a new claim 39 has been submitted.

Election/Restrictions

2. Amended claim 38 and newly submitted claim 39 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claim 25 which have originally presented and examined and amended claim 38 and newly submitted claim 39 are related as process and apparatus and as subcombinations disclosed as usable together in a single combination. It also should be noted that claims 25 and 38 or 39 are directed to two different Species, as admitted by applicant in the first paragraph of applicant's remark submitted on 01/25/2010. .

I. Claim 25, drawn to a punching machine for releasing a slug adhering to a stamp including a side of the cutting plate opposite from the side supporting the material layer being substantially non-parallel relative to the side of the cutting plate supporting the material layer. (Species I: Fig. 2)

II. Claim 38, drawn to a method for releasing a slug adhering to a stamp in a punching machine including the steps of providing a cutting opening extending

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from a side of the cutting plate supporting the sheet material and tapering inwardly from the side of the cutting plate supporting the sheet material to define a chamfered groove; and displacing a slug adhering to the stamp within the chamfered groove. (Species II. Fig. 4)

III. Claim 39, drawn to punching machine for releasing a slug adhering to a stamp including a cutting opening extending from a side of the cutting plate supporting the sheet material and tapering inwardly from the side of the cutting plate supporting the sheet material to define a chamfered groove. (Species II. Fig. 4)

The inventions are distinct, each from the other because of the following reasons:

3. Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the process as claimed can be practiced by another and materially different apparatus that does not include a side of the cutting plate opposite from the side supporting the material layer being substantially non-parallel relative to the side of the cutting plate supporting the material layer.
4. Inventions I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, e.g., subcombination I has a separate utility such as it could be used

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without the above-mentioned features set forth in invention III. Conversely, subcombination III has a separate utility such as it could be used without the above-mentioned features set forth in invention I. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

5. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

(a) the inventions have acquired a separate status in the art in view of their different classification;

(b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

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(c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);

(d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

In this case, the search for each individual invention may overlap but they do not coincide identically throughout. Therefore, the search for the elected invention may not be sufficient for the other non-elected inventions. Therefore, each individual invention includes a different field of search. In addition, the text and subclass search that might be needed to look for a particular feature in one invention is not sufficient for finding another particular feature in other invention due to their divergent subject matter. In other words, each individual invention with at least a distinct feature has a separate status in the art and requires a different field of search.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 38 and 39 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 25-27 and 29-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 25, “the side supporting the material layer is substantially non-parallel relative to the side of the cutting plate supporting the material layer such that only a part of a periphery of the slug adhering to the stamp is released by the scraping edge” is confusing. The claims implies that only a part of the slug or periphery of the slug is released by the scraping edge. In this case, it is not clear how the slug as a whole is released by the scraping edge. Only part of the periphery of the slug may engage the scraping edge, but the slug as a complete piece is released by the scraping edge.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 18-27 and 29-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Hashimoto et al. (2001/0020409), hereinafter Hashimoto. Regarding claim 18, Hashimoto teaches a method for releasing a slug adhering to a stamp 2 in a punching machine 1, by carrying the stamp, after performing a punching operation on a sheet material, with the active stroke at least partially through a cutting opening (a) in a cutting plate 3 supporting the sheet material, and carrying the stamp during the return stroke back again through the cutting opening (a) in the cutting plate which close-fittingly encloses the stamp; and scraping a slug

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adhering to the stamp during the return stroke with a side of the cutting plate remote from the side supporting the sheet such that the slug is released from the stamp. See Figs. 1-9 and paragraphs 60-64 in Hashimoto.

Regarding claim 19, Hashimoto teaches everything noted above including that the stamp is carried through the cutting opening in the cutting plate during the punching operation such that the periphery of the slug adhering to the stamp is released over only a part of the periphery from the cutting plate.

Regarding claim 20, Hashimoto teaches everything noted above including that the stamp 2 is carried through the cutting opening (a) in the cutting plate 3 during the punching operation such that the periphery of the slug adhering to the stamp is wholly released from the cutting plate.

Regarding claim 21, Hashimoto teaches everything noted above including that the return stroke of the stamp is continued so far that the cutting opening in the cutting plate and the sheet material are left clear by the stamp.

Regarding claim 22, Hashimoto teaches everything noted above including that after the sheet material has been left clear by the stamp, the processed sheet material is removed from the cutting plate.

Regarding claim 23, Hashimoto teaches everything noted above including a sheet material for processing is placed on the cutting plate before commencing the punching operation.

Regarding claim 24, Hashimoto teaches everything noted above including the slug released from the stamp is discharged. It should be noted that the slug is discharged through

the opening below the opening a, b. See Fig. 4 in Hashimoto.

Regarding claim 25, as best understood, Hashimoto teaches a punching machine for releasing a slug adhering to a stamp including a cutting plate 3 provided with at least one cutting opening (a), at least one stamp 2 for linear intermittent displacement which is displaceable between a position in which the cutting opening in the cutting plate is left clear by the stamp and a position in which the stamp is carried through the cutting opening, and wherein the stamp passes close-fittingly through the cutting opening of the cutting plate, wherein the cutting opening in the cutting plate has a scraping edge for releasing the slug adhering to the stamp. See Fig. 6 and paragraph 57 in Hashimoto. It should be noted that the opposite edge of the cutting plate 3 is angled or is substantially non-parallel relative to the side of the plate that supports the material layer. See Fig. 6 in Hashimoto. Hashimoto also teaches that the cutting plate is adapted to support a material layer for processing, and a side of the cutting plate opposite from the side supporting the material layer is substantially non-parallel relative to the side of the plate supporting the material layer such that only a part of a periphery of the slug adhering to the stamp 2 is released by the scraping edge. It should be noted that only the part of the slug that adhered to the stamp engages the scraping edge is released by the scraping edge.

Regarding claim 26, Hashimoto teaches everything noted above including that the free space between the stamp and the associated cutting plate in the position where the stamp is carried through the cutting opening is smaller than 0.02 mm. It should be noted that the free space between the stamp 2 and the cutting plate or the cutting edge of the cutting plate is less than 5 to 10 μm which is less than 0.02 mm. See paragraph 63 in Hashimoto.

Regarding claim 27, Hashimoto teaches everything noted above including that the cutting plate is adapted to support a material layer for processing, and the edge of the cutting opening on the side remote from the side supporting the material layer is sharp. It should be noted the edge of the cutting opening of the cutting plate 3 that is associated with the stamp 2 is sharp. The sharp edge is located remotely from a top surface of the cutting plate that supports the material layer. It should also be noted that the remote edge of the cutting opening is as sharp as the remote edge of the cutting opening in the current application. See Figs. 4-5, 9A in Hashimoto and Figs. 1-4 in the current application.

Regarding claim 29, Hashimoto teaches everything noted above including that the cutting plate 3 is supported by a punch plate with a passage (b) for the slug connecting onto the cutting opening in the cutting plate, which passage is larger than the cutting opening. It should be noted that the top section of the die 3 could be considered to the cutting plate and the lower section of the die 3 is considered to be the punch plate. It should also be noted that the passage (b) is larger than the cutting opening (a). See Figs. 4-5 in Hashimoto.

Regarding claims 30, Hashimoto teaches everything noted above including that the punch plate supports a plurality of plates. It should be noted that each side of the cutting opening has a cutting plate that is supported by the punch support plate.

10. Claims 25, 27 and 29-31, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Bakermans et al. (5,136,907), hereinafter Bakermans. Regarding claim 25, Bakermans teaches a punching machine for releasing a slug 35 adhering to a stamp 10 including a cutting plate 28 provided with at least one cutting opening 44, at least one stamp 10 for linear intermittent displacement which is displaceable between a position in which the

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cutting opening in the cutting plate is left clear by the stamp and a position in which the stamp is carried through the cutting opening, and wherein the stamp passes close-fittingly through the cutting opening of the cutting plate, wherein the cutting opening in the cutting plate has a scraping edge 48 for releasing the slug 35 adhering to the stamp 10. Bakermans also teaches that the cutting plate is adapted to support a material layer 5 for processing, and a side 46 of the cutting plate opposite from the side 29 supporting the material layer is substantially non-parallel relative to the side 29 of the plate supporting the material layer such that only a part of a periphery of the slug 35 adhering to the stamp 10 is released by the scraping edge. See Figs. 9-12 and col. 5, lines 29-68 and col. 6, lines 1-11 in Bakermans.

Regarding claim 27, Bakermans teaches everything noted above including that the cutting plate 28 is adapted to support a material layer 5 for processing, and the edge 52 of the cutting opening on the side remote from the side supporting the material layer is sharp.

Regarding claim 29, Bakermans teaches everything noted above including that the cutting plate 28 is supported by a punch plate 30 with a passage for the slug connecting onto the cutting opening 44 in the cutting plate, which passage is larger than the cutting opening.

Regarding claims 30, Bakermans teaches everything noted above including that the punch plate supports a plurality of plates. It should be noted that each side of the cutting opening has a cutting plate that is supported by the punch support plate.

Regarding claims 31, Bakermans teaches everything noted above including that the cutting plate 28 is connected releasably to the punch plate 30. See col. 30, lines 65-68 and col. 4, line 1.

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11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 25, 26 and 27, as best understood, are rejected under 35 U.S.C. 102(e) as being anticipated by Birch et al. (2003/0183057 A1), hereinafter Birch. Regarding claim 25, Birch teaches a punching machine for releasing a slug adhering to a stamp 12 including a cutting plate 14 provided with at least one cutting opening 32, at least one stamp 12 for linear intermittent displacement which is displaceable between a position in which the cutting opening in the cutting plate is left clear by the stamp and a position in which the stamp is carried through the cutting opening, and wherein the stamp passes close-fittingly through the cutting opening of the cutting plate, wherein the cutting opening in the cutting plate has a scraping edge 34 for releasing the slug adhering to the stamp 12. Birch also teaches that the cutting plate is adapted to support a material layer 16 for processing, and a side 34 of the cutting plate opposite from the side supporting the material layer is substantially non-parallel relative to the side of the plate supporting the material layer such that only a part of a periphery of the slug adhering to the stamp is released by the scraping edge. See Figs. 1-5 in Birch.

Regarding claim 26, Birch teaches everything noted above including that the free space between the stamp and the associated cutting plate in the position where the stamp is carried through the cutting opening is smaller than 0.02 mm. See paragraph 18 in Birch.

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Regarding claim 27, Birch teaches everything noted above including that the cutting plate 14 is adapted to support a material layer for processing, and the edge 34 of the cutting opening on the side remote from the side supporting the material layer is sharp.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

To the degree that it could be argued that Hashimoto does not teach that the cutting plate is attached to a separate punch plate, the rejection below is applied.

14. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hashimoto or in view of Isamu (JP 07 132497 A). Regarding claim 29-31, Hashimoto teaches everything noted above except separate (not integrated) plate punch that releasably supports separate punch plate. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to separate the cutting plates from the punch in Hashimoto, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

In addition, the used of separate cutting plates releasably supported by a punch plate is well known in the art such as taught by Isamu (JP 07 132497 A). Isamu teaches a plurality cutting plates 3 releasably supported by a punch plate 11. See Fig. 1 in Isamu. It would have

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been obvious to a person of ordinary skill in the art to separately and releasably connect the cutting plates in Hashimoto's cutting device to the punch plate, in order to enable the user to replace the cutting plates.

15. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bakermans. Regarding claim 26, Bakermans teaches everything noted above including that the free space "C" between the stamp 10 and the associated cutting plate 28 is about 0.025 mm. Bakermans does not teach explicitly that the clearance or the free space is less than 0.025 mm. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to select less than 0.02 mm clearance or free space between the punch plate and the stamp in Bakermans' punching apparatus, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

Response to Amendment

16. Applicant's arguments filed on 01/25/10 have been fully considered but they are not persuasive.

Applicant's argument that Hashimoto does not teach a scraping edge is not persuasive. The bottom edge of the cutting edge 3a of the cutting plate 3 blocks a chad or a small metal piece attached to the punch 2 during the return stroke of the punch. Therefore, the cutting edge 3a can be considered as a scraping edge that scrap the small metal piece formed when the punch hole is punched in the soft metal sheet and helps the small metal piece to drop out of the undercut portion 3b. See paragraph 56 and Fig. 5 in Hashimoto.

Applicant states that Hashimoto teaches that gate 13b function as a scraper that removes fragment of metal. Applicant also argues that edge 3a only functions as means to permit a chad to freely drop out of the undercut portion 3b and does not function as a scraper for metal slug. Firstly, the punching machine in the instant invention is similar to Hashimoto's punching machine. The instant invention includes an edge 11 for scraping or removing a chad 9 or a slug 9. See Figs, 1A-1C in the instant application. The edge 3a of the cutting plate of Hashimoto similar to the edge 11 of the cutting plate of the instant invention removes or scrap slug or chad adhered to the stamp. Applicant fails to elaborate how the edge 11 of the cutting plate in the instant application functions differently than the edge 3a of the cutting plate of Hashimoto. If there is a chad or slug that is adhered to the stamp 2 of Hashimoto's punching machine naturally will be scraped or removed by the edge 3a as the stamp 3 moves upwardly and the chad or slug contacts the edge 3a. Therefore, edge 3a is a scraping edge. Secondly, Hashimoto teaches that the gate 13b removes small pieces or fragments of metal adhered to the stamp. The edge 13b does not remove or scrap the slug or chad or a punch out portion of the soft metal adhered to the stamp 2; instead edge 3a removes or scraps the slug or chad adhered to the stamp during upward movement of the stamp.

Applicant's argument with respect to claim 19 is addressed above, since applicant again argues that only gate 13b is the only scraping edge for removing slug or fragment of metal. However, as stated above edge 13a is a scraping edge. The slug could be removed by contacting the tip of the edge 13a which is considered to be only a part of the periphery from the cutting plate.

Applicant's argument that the edge of the cutting edge portion 3a that is remote from the side supporting the material layer does not enclose an angle with a cutting edge of the stamp is not persuasive. As stated above, the edge 3b of the cutting opening "a" at least locally encloses an angle of zero or others with a cutting edge of the stamp. The edge 3b is remote from the supporting surface of the cutting plate.

Applicant's argument that Examiner's assertion that the cutting edge 3a of Hashimoto can be considered as a scraping edge is in conflict with express teaching of Hashimoto that the chad or small piece of metal drops freely drops out of the undercut portion 13 is not persuasive. Firstly, Hashimoto does not disclose that the edge 3a is not capable of scraping metal or small pieces of workpiece that is attached to the punch while the punch is retracted upwardly. Secondly, the device in Hashimoto could be used to cut the same material in the instant invention that produces the slug 9 attached to the punch 2. In this case, the slug that is attached to the punch also is scraped by the edge 3a in Hashimoto's device when the punch is retracted upwardly. Thirdly, Similar to Hashimoto's apparatus that includes an undercut portion "3b" the instant invention also includes undercut portion. In this case, the undercut portion in the instant invention also could be used for freefall of a chad or a small metal piece. That does not disqualify the edge 11 of the instant invention as a scraping element for scraping the chad or small piece of metal.

Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (571) 272-4501. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, SEE <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ghassem Alie/

Primary Examiner, Art Unit 372

February 2, 2010